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EXTRAORDINARY

Part II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 5th April, 1958:

BILL NO. 15 OF 1958

A Bill further to amend the Indian Contract Act, 1872.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Contract (Amendment) Act, 1958. Short title and commencement.

5 (2) It shall come into force at once.

9 of 1872. 2. In section 69, of the Indian Contract Act, 1872 (hereinafter referred to as the principal Act), the illustration shall be omitted. Amendment of section 69.

3. In section 129 of the principal Act, illustration (a) shall be omitted, and illustrations (b) and (c) shall be re-numbered as (a) of section 129, 10 and (b) respectively. Amendment of section 129.

STATEMENT OF OBJECTS AND REASONS

The illustration to section 69 of the Indian Contract Act, 1872, deals with a certain lease granted by a Zamindar in Bengal. The illustration (a) to section 129 of the said Act, also refers to collection of rents in a Zamindari.

2. After the abolition of Zamindaris in India, these illustrations have become detached from reality and may therefore be omitted.

Hence the Bill.

NEW DELHI;

SATIS CHANDRA SAMANTA

The 13th February, 1958.

BILL No. 35 OF 1958

A Bill to prevent the employment of women in factories, plantations and other establishments for some time before and some time after confinement and to provide for payment of maternity and medical benefits to them.

WHEREAS it is expedient to prevent the employment of women in factories, plantations or other establishments for some time before and some time after confinement and to provide for the payment of maternity and medical benefits to them;

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (i) This Act may be called the All-India Maternity Benefit Act, 195¹⁵ Short Title,
Extent,
commerce-
ment and
application.
- (ii) It extends to the whole of India.
- 10 (iii) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.
- (iv) It shall apply, in the first instance to all factories and plantations.
- (v) The Government may after giving one month's notice of their intention of so doing by notification in the Gazette extend the provisions of this Act to any other establishment or class of establishments, industrial, commercial or otherwise wherein fifty or more persons are employed or were employed on any day of the preceding twelve months.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "employer" includes the occupier and the manager of a plantation or a factory or an establishment;

(b) "establishment" means an establishment to which the provisions of this Act have been extended under sub-section (v) of section 1.

(c) "certifying surgeon" means a qualified medical practitioner preferably a woman doctor, or appointed nurse or ^{dat} appointed as such for purposes of this Act; ¹⁰

(d) "factory" has the same meaning as in the Factories Act, ^{53 of 1948.} 1948;

(e) "Inspector" means an Inspector appointed under section 14;

(f) "worker" in relation to a factory has the same meaning ¹⁵ as in the Factories Act, 1948, and in relation to a plantation or in relation to any other establishment means a person employed directly or through an agency whether for hire or not, to do any work, skilled or unskilled, manual or clerical or any person so employed under a contractor engaged in the execution of the whole or any part of any work which is ordinarily part of the trade or business of the employer, but does not include a person whose total emoluments exceed three hundred rupees per mensem or any member of the managerial staff, that is to say, the Manager, Assistant Manager, or other Agent of the ²⁰ employer; ^{53 of 1948.} ²⁵

(g) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee, tea or cardamom, and also has the same meaning as in the Plantation Labour Act, 1951. ^{30 69 of 1951.}

(h) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a plantation or a factory or an establishment;

(i) "prescribed" means prescribed by rules made under this Act; and ³⁵

(j) "woman" means a woman worker.

3 (1) After this Act comes into operation, no employer shall employ a woman in any factory, plantation or other establishment after she has given notice under sub-section (1) of section 5 or knowingly employ any woman in any such factory, plantation or ⁴⁰ other establishment during the eight weeks immediately following the day of her confinement.

(2) During the period of pregnancy a woman shall not be knowingly employed on work which is arduous or which requires long standing at one place or which may in any way interfere with her pregnancy and is likely to cause miscarriage or adversely affect her health or interfere with the normal development of foetus.

4. (1) Subject to provisions of this Act, every woman in a factory, plantation or an establishment shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily earnings during the period of her actual absence immediately preceding and including the day of her confinement and for the eight weeks immediately following her confinement.

Right to maternity benefit of women in factories, plantations and other establishments.

Explanation.—For the purpose of this section and sections 6 and 7, "average daily earnings" means average of her total full-time earnings for the days on which she worked during the month immediately preceding the date on which she gives notice under sub-section (1) of section 5:

20 Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory or plantation or an establishment of the employer from whom she claims maternity benefit for at least hundred days whether continuously or intermittently during the period of nine months immediately preceding the date on which she gives notice under sub-section (1) of section 5:

25 Provided further that if the claimant is a permanent worker in a plantation and works less than 100 days the proportionate maternity allowance and full 12 weeks leave should be granted.

30 (2) Notwithstanding anything contained in sub-section (1), if at or before the commencement of this Act, an employer has been paying to women workers in any factory or plantation or in any other establishment, maternity benefit at a rate higher than that payable under sub-section (1), then every woman worker in such factory or plantation or an establishment shall be entitled to and the employer shall be liable for the payment of maternity benefit at such higher rate.

35 (3) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be twelve weeks, that is to say, four weeks up to and including the day of her confinement and eight weeks immediately following that day.

40 (1) Any woman in a factory or plantation or in an establishment entitled to maternity benefit under the provisions of this Act may give notice in writing to her employer stating that her maternity

Notice of claim of maternity benefit and payment thereof.

benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman has not been confined, such notice shall state that she expects to be confined within four weeks from the date of the notice; if she ⁵ has been confined, such notice shall be given within one week of her confinement.

(2) The employer shall on receipt of the notice permit such woman to absent herself from the factory or plantation or establishment until the expiry of eight weeks after the date of her confinement. ¹⁰

(3) The amount of maternity benefit for two weeks shall be paid in advance to the woman and the balance amount for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such ¹⁵ proof, as the Government may by rules prescribe, that the woman has been confined. The amount due for the subsequent period shall be paid punctually each week in arrear.

Leave for miscarriage. 6. In case of miscarriage, a woman shall on production of a certificate signed by the certifying surgeon or any other qualified medical ²⁰ practitioner or on production of such other proof of miscarriage as may be prescribed be entitled to three weeks leave from the date of her miscarriage with average daily earnings. If the claimant refuses to be examined by a male doctor, the employer must call a woman doctor, a nurse or as laid down by rules to examine her. ²⁵

Leave for illness arising out of pregnancy or confinement. 7. A woman shall be entitled to leave with wages for a maximum period not exceeding thirty days in cases of illness arising out of pregnancy or confinement in addition to the maternity leave to which she is entitled to under section 4 at the rate of the claimant's average daily earnings. ³⁰

Payment of medical bonus. 8. Every woman entitled to maternity benefit under section 4 shall also be entitled to receive from her employer a medical bonus of ten rupees if no prenatal confinement or postnatal care is provided for the employer free of charge, on production of such proof as may be prescribed. ³⁵

Payment of maternity benefit in case of claimant's death. 9. If a woman entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due to the person who undertakes the care of the child, if the child is living, and if the child is not living, to the nominee mentioned in ⁴⁰ the notice given under sub-section (1) of section 5, and if there is no such nominee, to the heirs to the deceased woman.

10. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

Dismissal
during preg-
nancy or
absence.

(2) The dismissal of a woman at any time during her pregnancy if the woman but for such dismissal would have been entitled to maternity benefit under this Act shall not have the effect of depriving her of that maternity benefit.

10 (3) If the confinement involves illness incapacitating a woman for work the employer shall not be entitled to dismiss her if she fails to return to duty on the expiry of eight weeks after her confinement, in addition to the leave provided for in section 7, without getting the approval of a certifying surgeon who may increase the period of absence if he considers fit.

11. (1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under section 9 is improperly withheld may make a complaint to the Inspector.

Power of
Inspector to
direct pay-
ments to be
made.

20 (2) On receipt of such complaint or on his own motion without any such complaint being made, the Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

25 (3) Any person aggrieved by the order of the Inspector under sub-section (2) may appeal to the Labour Commissioner or such other officer as may be empowered by the Government in this behalf within such time and in such manner as may be prescribed.

1 of 1890. (4) Any amount payable under this section shall be recoverable as arrears of land revenue under the Revenue Recovery Act, 1890 for the time being in force.

12. If a woman works in any factory or plantation or establishment after she has been permitted by her employer to absent herself under the provisions of section 5, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Forfeiture
of maternity
benefit.

13. Every woman in a factory or plantation or in an establishment who returns to duty after confinement shall be allowed in the course of her daily work two intervals of sufficient time to feed the child till the child attains the age of two.

Nursing
breaks.

Appoint-
ment of
Inspectors.

14. The Government may by notification in the Gazette appoint such officers of the Government as they think fit to be Inspectors for the purposes of this Act and may assign to them such local limits as they think fit.

Powers and
duties of
Inspectors.

15. Subject to any rules made in this behalf, an Inspector may, 5 within the local limits for which he is appointed, enter any place which is used or which he has reason to believe is used, as a factory or a plantation or an establishment with such assistants as he thinks fit and inspect the premises and such registers, records and notices as may be prescribed.

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Inspectors
to be public
servants.

16. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Penalty for
contraven-
tion of Act
by employ-
er.

17. If any employer contravenes any of the provisions of this Act, he shall be punished with fine which may extend to five hundred rupees and where the contravention is of the provision 15 relating to the payment of maternity benefit, and where the amount has not been already recovered the court shall recover the amount due on account of maternity benefit as if it were a fine and pay such amount to the person entitled thereto.

Jurisdiction
of Courts.

18. (1) No court inferior to that of a Magistrate of the First 20 Class shall try any offence against this Act or any rules thereunder.

(2) No prosecution for any offence against this Act or any rules thereunder shall be instituted except by or with the previous sanction of the Inspector.

Period of
limitation
for prosecu-
tion.

19. No Court shall take cognizance of, or convict a person for, 25 any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid the time, if any, taken for the purpose of obtaining the previous sanction of the Inspector under sub-section (2) of section 30 18 shall be excluded.

Rules.

20. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

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(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll,

(b) the preparation of a roll of women doctors, nurses and dais who may be called by the employers as certified surgeons, if the claimant refuses to be examined by a male doctor,

5 (c) the inspection of factories, plantations and other establishments for the purpose of this Act by Inspectors,

(d) the exercise of powers and the performance of duties by Inspector for the purpose of this Act,

10 (e) the method of payment of maternity benefit and other benefit under this Act in so far as provision has not been made therefor in this Act,

(f) the nature of proof under sub-section (3) of section 5 and sections 7 and 8, and

(g) all matters which are to be or may be prescribed.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

15 (4) The making of rules under this section shall be subject to the condition of previous publication.

21. A copy of the provisions of this Act and Rules thereunder in the local language shall be exhibited in a conspicuous place by 20 the employer in every factory, plantation and establishment in which women are employed.

A copy of
Act and
Rules to be
exhibited in
factories,
plantations
and other
establish-
ments em-
ploying wo-
men.

22. This Act will supersede all State Maternity Benefit Legisla- Repeals.
tions which do hereby stand repealed.

STATEMENT OF OBJECTS AND REASONS

In order to permit a woman to fulfil her double role of a worker and a mother, dedicating her energy to raise both the wealth of the nation and the family, as well as to rear up healthy happy children, the need for an All-India Maternity Benefit legislation has become necessary. Although State legislations guide Maternity Benefits, All-India legislation has been demanded for a long time:

- (1) because there is such wide divergence of the law varying from State to State;
- (2) because Maternity Benefit in plantations is being widely circumvented due to loopholes in the State laws;
- (3) white collar women workers in offices, in schools and colleges and in other institutions have no legal act guiding their right to Maternity Benefit.

2. Although the Central Government has asked State Governments to revise their Maternity Benefit laws and made them conform to certain common standards, as yet very few State Governments have complied with this request while many workers continue to face the sufferings arising out of the loopholes and inequities of the existing maternity benefit laws. Dismissals from service and threats of being rendered unemployed are commonly-used devices to circumvent the law. The rates are often low and payment so long deferred that the very purpose of the Act is often defeated. Hence the urgent necessity of this All-India Act.

NEW DELHI;

The 24th February, 1958.

RENU CHAKRAVARTTY.

FINANCIAL MEMORANDUM

Sub-Clause (3) of clause 5 of the Bill contemplates the payment of maternity benefit to women workers for certain time before and after confinement. Clause 6 of the Bill provides three weeks' leave for miscarriage with average daily earnings. Clause 7 of the Bill provides leave to a woman for illness arising out of pregnancy or confinement with average daily earnings. Clauses 8 and 9 of the Bill provide payment of medical bonus and maternity benefit in case of claimants death respectively. Clause 14 of the Bill contemplates the appointment of inspectors. The Bill, when enacted and brought into operation, would not involve appreciable expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules in respect of powers and duties of inspectors. Clause 20 of the Bill empowers the Central Government to make rules for the purpose of carrying into effect the provisions of the Act. The delegation of legislative power is of a normal character.

BILL No. 32 OF 1958

A Bill to amend the Untouchability (Offences) Act, 1955.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (i) This Act may be called the Untouchability (Offences) Amendment Act, 1955. Short title
and com-
mencement.
- 5 (ii) It shall come into force at once.
- 22 of 1955. 2. In section 3 of the Untouchability (Offences) Act, 1955 (hereinafter referred to as the principal Act),—
 - 10 (i) in clause (a), for the words, “other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person,” the words “Hindus or any class or section thereof” shall be substituted.
 - (ii) in clause (b),—
 - 15 (a) for the words “other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person” the words “Hindus or any class or section thereof” shall be substituted.
 - (b) In the explanation the words “and section 4.” shall be omitted.

Amendment
of section 4.

3. In section 4 of the principal Act,—

(i) in sub-clause (ii), for the words "of persons professing the same religion or belonging to the same religious denomination or any section thereof as such person" the words "any section thereof" shall be substituted. 5

(ii) in sub-clause (iv), for the words "persons professing the same religion or belonging to the same religious denomination or any section thereof, as such persons" the words "any section thereof" shall be substituted.

(iii) in sub-clause (v), for the words "persons professing to the same religion or belonging to the same religious denomination or any section thereof, as such persons" the word "any section thereof" shall be substituted.

(iv) in sub-clause (vi), for the words "of persons professing the same religion or belonging to the same religious denomination or any section thereof, as such persons" the words "any section thereof" shall be substituted. 15

(v) in sub-clause (ix), for the words "to persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person," the words "any section thereof," shall be substituted. 20

STATEMENT OF OBJECTS AND REASONS

Section 3 of the Untouchability (Offences) Act, 1955 restricts the religious right of a member of the Scheduled Castes belonging to a particular religion or religious denomination or section of the religious denomination from entering and offering worship in any place of public worship which is open to a member of a different religion or religious denomination or section of a religious denomination. Section 4 similarly restricts his social rights to the use of river, well, road, *dharmasala* and places of public entertainment. He should have equal religious rights with any Hindu, and equal social rights with any member of the general public and it is necessary and expedient to remove those restrictions.

Hence the Bill.

NEW DELHI;

The 27th February, 1958.

S. M. SIDDIAH.

BILL No. 34 of 1958

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 19^{45 of 1860.} Short title and Commencement.
5. (2) It shall come into force at once.
2. In section 497 of the Indian Penal Code, 1860, (hereinafter referred to as the principal Act), for the words "shall not be punishable" the words "shall be punishable" shall be substituted. Amendment of Section 497.
3. In section 498 of the principal Act, the words "In such case the wife shall be punishable as abettor" shall be added at the end. Amendment of Section 498.
4. This Act shall have retrospective effect regarding cases pending in Courts at the commencement of the Act. Retrospective effect.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India has made no distinction between men and women who now enjoy equal rights. In the fitness of things, the women should also bear equal liabilities with men.

2. In cases of adultery, it has been found that women take the leading part particularly when the man is younger in age than she, knowing full well that she is committing an act of betrayal towards the husband. At the time of the deposition during trial, she feigns ignorance regarding the man with whom she has committed that offence. The result is that sometimes the man escapes unpunished on account of her deposition. To protect the society from such heinous offence where man and woman are equally guilty, this amendment to sections 497 and 498 of the Indian Penal Code, 1860, is necessary.

SUBIMAN GHOSE.

NEW DELHI;

*The 4th March, 1958.*M. N. KAUL,
Secretary.

